

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

ORIGINAL
FILE

In re Applications of	)	MM DOCKET No. 92-183
)	
WESTERN INSPIRATIONAL BROADCASTERS,	)	File No. BPED-910923MF
INC.)	
)	
BROAD SPECTRUM COMMUNICATIONS, INC.	)	File No. BPH-910925ME
)	
PHOENIX BROADCASTING, INC.	)	File No. BPH-910926ME
)	
NINETY-TWO SEVEN, LTD.	)	File No. BPH-910926MF
)	
For Construction Permit for New)	
FM Broadcast Station on Channel)	
224A at Chico, California)	

TO: Honorable Edward J. Kuhlmann
Administrative Law Judge

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

SUPPLEMENT TO
JOINT REQUEST FOR APPROVAL OF SETTLEMENT

Broad Spectrum Communications, Inc. (BSCI), Phoenix Broadcasting, Inc. (Phoenix) and Ninety-Two Seven, Ltd. (NTSL), by their respective attorneys, hereby respectfully submit this Supplement to the "Joint Request for Approval of Settlement", filed in this case on September 8, 1992. In support whereof, the following is shown:

1. There is attached hereto as Exhibit A an "Addendum to Agreement" executed by BSCI, Phoenix and NTSL. The purpose of this addendum is to address a concern by counsel for the Chief, Mass Media Bureau (Bureau) that the granting of a "put" to NTSL and BSCI and the fixing of a price for the value of stock of Chico FM, Inc. (CFMI) in connection with that "put" might violate the Commission's prohibition against

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compensation in excess of reasonable and prudent expenses in Section 73.3525 of the Rules. Counsel for the Bureau has orally advised the undersigned that he would not object to the parties entering into a provision whereby the price for a "put" option is to be determined by an appraisal to be performed at the time the "put" is to be exercised, i.e., one year after the CFMI station has commenced operations. The "Addendum to Agreement" deletes reference to the fixed price for the "put", and substitutes a provision calling for the "put" price to be determined by an appraiser.

3. Such a provision is undoubtedly lawful. As a result of this new provision, there is no guarantee that a party, in exercising its "put" option, could receive any compensation whatsoever, as the liabilities of CFMI could exceed the value of the appraised value. See also Radio Station WABZ, Inc., FCC 82-64, 51 RR 2d 37, 43 (¶¶17-19) (Comm'n, 1982), citing with approval Mesabi Communications Systems, Inc., 57 FCC 2d 832, 834-35, 36 RR 2d 31 (Rev. Bd., 1976), where the private sale of stock in the holder of a construction permit was held not to be governed by the prohibition on excess compensation set forth in Section 73.3525 of the Rules.

4. Counsel for the Bureau has also orally advised the undersigned that he desired additional case precedent for the approval of the option which permits BSCI and NTSL to agree to a merger of CFMI into Phoenix in exchange for the

issuance to each of them of shares in Phoenix equal to four (4) percent of the issued and outstanding stock of Phoenix.

5. To this request we attach hereto as Exhibit B the Review Board's ruling in Biard Communications, Inc., 88 FCC 2d 381, 50 RR 2d 337 (Rev. Bd., 1981), which was specifically adopted as the law of the Commission in Venton Corporation, 90 FCC 2d 307, 51 RR 2d 1208 (1982). In Biard, the Board ruled, 50 RR 2d at 339, 340 (§8):

In sum, we hold that where applicants propose a bona fide merger of business interests in a settlement agreement, the full explanation and justification of consideration paid (including appraisals) that is required by §73.3525 (a) of the rules for reimbursement or "buy-out" agreements need not be supplied. Not only does this approach meet the letter and spirit of the Act, but it also avoids the extra expenses and delays that would be incurred by applicants in future merger cases in providing appraisals of existing stations or statements of value for unbuilt stations that are the subject of merger agreements.

6. In Biard, the Board only provided one example of a non-bona fide merger, that being in the case of Charles W. Jobbins, 71 FCC 2d 295, 45 RR 2d 596 (1979). Therein, the Commission ruled, 45 RR 2d at 600 (§10), that:

The key feature of the settlement agreement which precludes any possible determination that it is a bona fide merger of business interests to a new entity which will operate the proposed station on a continuing basis is that Western has an absolute contractual obligation after three years to purchase the stock of the other participating stockholders in KRLA, Inc. and that the other stockholders have an absolute obligation to sell their stock to Western.

7. In this case, there is no obligation on the part of BSCI or NTSL to sell their shares in Phoenix to Phoenix or its shareholders, and neither Phoenix nor its shareholders have any right to demand that BSCI or NTSL tender their shares of Phoenix for repurchase or redemption. Therefore, under the rule of Biard, this merger is bona fide, and the parties need not make any further showing under Section 73.3525(a) of the Rules than has already been made by them.

WHEREFORE, it is urged that the Joint Request for Approval of Settlement BE APPROVED, and that the relief requested therein BE GRANTED IN FULL.

Respectfully submitted,

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Donald E. Martin 100K1
Donald E. Martin
Its Attorney

October 2, 1992

EXHIBIT A

ADDENDUM TO AGREEMENT

This Addendum to that certain Agreement of September 7, 1992, entered into this 2nd day of October, 1992, by and among Phoenix Broadcasting, Inc., a California corporation (Phoenix); Broad Spectrum Communications, Inc., a Delaware corporation (BSCI); and Ninety-Two Seven Ltd., a Delaware corporation (NTSL):

WHEREAS, the parties hereto seek to ensure that their agreement complies in all respects with the Communications Act of 1934, as amended, and the Rules and Regulations of the Federal Communications Commission;

NOW, THEREFORE, the parties amend their Agreement of September 7, 1992 (hereinafter "the Original Agreement") as follows:

1. The parties hereby amend the definition of "Option Period" set out in paragraph 14 of the Original Agreement by substituting "ninety (90) calendar days" in place of "thirty (30) calendar days".

2. The parties hereby agree that paragraphs 16 and 17 as set forth in the Original Agreement are hereby declared null and void and of no further force and effect. In their place, the parties substitute the provisions set forth in the paragraphs infra. All terms used herein have the same meaning as in the Original Agreement.

3. In the event that NTSL, within the Option Period, does not wish to participate in The Merger but instead selects Option Two, it may, at its sole option, "put" its shares in CFMI to BSCI, at a price to be calculated by the formula set forth in paragraph 4 infra (the "Put Price"). This payment shall be made in cash within five (5) calendar days of the date upon which Commission approval of transfer of control of CFMI shall have become final and unappealable (the Closing Date). NTSL shall give BSCI written notice of its desire to "put" its shares of CFMI to BSCI; BSCI shall have 10 days thereafter to notify NTSL and Phoenix as to whether it will acquire NTSL's shares in CFMI. In the event that BSCI accepts the "put" and acquires NTSL's shares in CFMI, BSCI will have the right to exchange NTSL's 1000 CFMI shares for Phoenix common shares equal to four (4) percent of the issued and outstanding Phoenix common stock. In the event that BSCI declines to acquire said shares, Phoenix will be required to acquire said shares at the Put Price, payable in cash on the Closing Date specified in this paragraph.

4. In the event that BSCI, within the Option Period, does not wish to participate in The Merger but instead selects Option Two, it may, at its sole option, put its shares in CFMI to Phoenix, at the Put Price, payable in cash on the Closing Date as defined in paragraph 2 supra.

5. The Put Price shall be determined in the following manner:

a. In the event that one or more parties exercise their rights under Option Two, an appraiser expert in the valuation of an FM Broadcast Station in the Chico, California radio market will be retained to perform an appraisal of the value of CFMI's Chico FM station as provided infra. At the time he is retained, this appraiser must: (a) be a member in good standing of the National Association of Media Brokers; and (b) have served as broker for the sale of a radio broadcast property in Northern California, excluding the San Francisco and Sacramento metropolitan areas, that was consummated within three (3) years of the date he is retained.

b. Clusters of parties will be grouped in accord with the circumstances of which parties have exercised Option Two hereunder. If NTSL sells its shares in CFMI to BSCI, NTSL and BSCI will form the cluster. If NTSL sells its shares to Phoenix, NTSL and Phoenix will form the cluster. If both NTSL and BSCI sell their shares in CFMI to Phoenix, all three parties will form the cluster. The appraiser to be used for a given transaction will be selected by the agreement of all parties in that cluster.

c. CFMI will bear the cost of said appraisal, except that in the event that the parties cannot agree upon an appraiser, then each party will at its own expense retain its own appraiser, who must meet the qualifications set forth in

subparagraph "a" supra. Each such appraiser will conduct an independent appraisal of the value of CFMI's Chico FM station, and after all appraisals have been completed the value of CFMI's Chico FM station will be deemed to be the average of all such appraisals.

d. The determination of the dollar value of the Chico FM station ("the Appraised Value"), whether obtained from a single appraisal or from the average of multiple appraisals as provided in subparagraph "c" supra, will be final and binding on all parties. Thereupon, all indebtedness and liabilities of CFMI will be subtracted from the Appraised Value, and the result will be the net stockholder's equity. The net stockholder's equity will be divided by 3,000, and the result will constitute the price to be paid per share of CFMI stock under Option Two. This price shall constitute the Put Price.

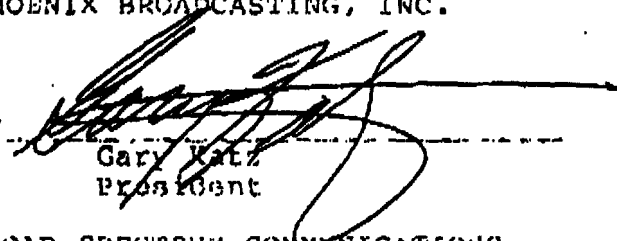
6. The foregoing represents the only changes which are being made to the Original Agreement. In all other respects the Original Agreement is a valid document which is legally binding on the parties hereto. This Addendum may be executed in one or more counterparts; when all parties have executed such counterparts, this Addendum shall constitute their binding agreement legally enforceable by its terms.

IN WITNESS WHEREOF, the parties agree to the foregoing on the date written above.

- 5 -

PHOENIX BROADCASTING, INC.

By


Gary Katz
President

BROAD SPECTRUM COMMUNICATIONS,
INC.

By

Paul Eric Dausman
President

NINETY-TWO SEVEN, LTD.

By

Wilber Johnson
Vice-President

PHOENIX BROADCASTING, INC.

By _____
Gary Katz
President

BROAD SPECTRUM COMMUNICATIONS,
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By Paul Eric Dausman
Paul Eric Dausman
President

NINETY-TWO SEVEN, LTD.

By _____
Wilber Johnson
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- 5 -

PHOENIX BROADCASTING, INC.

By _____
Gary Katz
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BROAD SPECTRUM COMMUNICATIONS,
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NINETY TWO SEVEN, LTD.

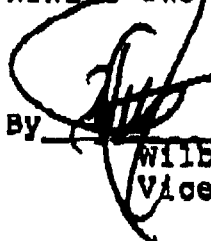
By  10/2/92
Wilber Johnson
Vice-President

EXHIBIT B



In re Applications of)	
)	
BIARD COMMUNICATIONS, INC.	)	BC Docket No. 79-274
Batesville, Arkansas	)	File No. BPH-10931
)	
WHITE RIVER VALLEY FM RADIO	)	BC Docket No. 79-275
Batesville, Arkansas	)	File No. BPH-11191
)	
For Construction Permits)	

Adopted: September 24, 1981
Released: September 29, 1981

[§10:311, §53:3525] Settlement agreement; bona fide merger.

An agreement between two competing construction permit applicants under which the existing indebtedness and expenses involved in the construction of the new station would be shared by the principals of both applicants and operating responsibility would be divided between two fulltime managers, one representing each former applicant, constituted a bona fide merger proposal to which the reimbursement limitations of Section 311(c)(3) of the Act would not apply. Accordingly, the applicants would not be required to submit an appraisal of the station in order to justify the amount of consideration passing between them and to the station. Such an approach not only complies with the letter and spirit of the Act, but avoids additional expenses and delays that would be incurred in future merger cases. Biard Communications, Inc., 50 RR 2d 337 [Rev. Bd., 1981].

[§53:3525] Delay in filing settlement agreement.

In view of the complexity of the settlement-merger agreement finally concluded between former competitors for a new FM station, which accounted for some of the delay in filing the proposed agreement and disclosing the status of settlement negotiations, the public interest would better be served by accepting the late-filed settlement agreement than by denying the parties' request for waiver of the applicable timeliness requirements and dismissing the joint petition for approval of the agreement. However, future parties to settlement agreements are expected to exhibit greater promptness in concluding such agreements and fuller disclosure of the status of their negotiations. Specifically, the Board expects to be informed as early as possible that negotiations are taking place (not several days before the date on which oral argument is scheduled, as here), particularly if such negotiations are the basis for requests for extensions of time; moreover, as a general rule, the Board will expect the negotiations to be completed within thirty-five days after commencement, and will demand careful adherence to the five-day



limit specified in the rules for filing of settlement agreements concluded between the parties. Biard Communications, Inc., 50 RR 2d 337 [Rev. Bd., 1981].

MEMORANDUM OPINION AND ORDER

By the Review Board:

1. This case reached the Review Board on October 20, 1980 when White River Valley FM Radio filed exceptions. Oral argument was scheduled but postponed upon motion of the parties, who stated that they had agreed to settle the case. Order, FCC 81R-15, released February 13, 1981. Now that the last pleading concerning the settlement agreement has been filed (August 14, 1981), we conclude that the settlement agreement, which proposes a "bona fide" merger, satisfies the requirements of the Communications Act and the Commission's rules. To avoid needless expense and delay in the future we clarify the different showings required for "bona fide" mergers as contrasted with "buy-out" agreements, and insist on stricter adherence to the Commission's procedural requirements. See paras. 6-8 and 9-11 below.

Background

2. Biard Communications, Inc. (Biard) and White River Valley FM Radio (White River), competing applicants to establish a new FM station at Batesville, Arkansas, were designated for comparative hearing. Largely because White River was controlled by the licensee of an AM station in the same community, Biard was selected as the best comparative applicant. Initial Decision of Administrative Law Judge Harrison, FCC 80D-29, September 19, 1980. Following the filing of exceptions, and postponement of oral argument, the applicants filed a joint petition for approval of agreement on June 2, 1981.

3. The agreement provides that White River, the losing applicant, will withdraw its FM application; that the Biard application will be granted; and that the interests of Mr. and Mrs. Joseph Biard, the principals of Biard will be merged with the licensee of AM station KBTA at Batesville which controls the losing applicant for the FM station in this case. (White River Valley Broadcasters, Inc. is the licensee of Station KBTA.) Eventually, Mr. and Mrs. Biard and Mr. and Mrs. Thomas A. Vinson will control and operate both existing Station KBTA and the proposed FM station. An application (FCC Form 315) for consent to transfer of control of KBTA, reflecting the new ownership of Station KBTA, was filed with the Commission's Broadcast Bureau concurrently with the joint petition. The Broadcast Bureau initially opposed the joint petition because the parties had not submitted an appraisal of Station KBTA. Subsequently, the parties supplemented their joint petition to include an appraisal and, on August 14, 1981, the Bureau supported the joint agreement.

4. Biard is at present wholly owned by Joseph and Nancy Biard; the present ownership of White River Valley Broadcasters, Inc. (Station KBTA), consists of Thomas A. Vinson (40%), Thomas G. Vinson (30%), and Nan Tucker (30%). Under the terms of the merger, Mr. and Mrs. Biard and Mr. and Mrs. Thomas A. Vinson will each become 50% joint owners of Station KBTA. The Biards will pay \$97,500.00 to Thomas G. Vinson for 105 shares of Station KBTA and he, along with Nan Tucker, will cease to have any ownership interest in Station KBTA. In addition, the Biards and the Vinsons will each personally guarantee one-half of Station KBTA's present indebtedness of \$208,028.26 owed to the Higginbottom estate. The White River FM application will be dismissed, the Biard application will be granted, and Thomas A. Vinson and Joseph Biard pledge to devote all of their time to the operation of the existing AM station and the construction and operation of the proposed FM station. Ultimately, after approval of the agreement, Biard Communications will be dissolved and Station KBTA will undertake to construct and operate the new FM station.

Discussion

5. The parties have complied with the provisions governing merger agreements set forth in Section 311(c) of the Communications Act of 1934 as amended, 47 USC 311(c), and with the relevant portions of §73.3525(a) and (b) of the rules, 47 CFR §73.3525(a) and (b). Thus, they have set forth the exact nature of the consideration promised and the interests to be merged, a summary of the history of the settlement negotiations including who initiated them, and reasons why the agreement is in the public interest, and they have provided

concurring affidavits of principals of each applicant. See *Mid-Florida Television Corp.*, ___ FCC 2d ___, 49 RR 2d 1477 (1981).

6. In its original pleading the Bureau contended that the applicants were required to submit an appraisal of Station KBTA to demonstrate that White River will not receive consideration for dismissal of its application in excess of that permitted by §73.3525. The applicants reluctantly agreed to submit the appraisal. Section 311(c)(3) of the Act, from which §73.3525 of the rules is derived, imposes greater restrictions on Commission approval of reimbursement to a dismissing applicant than it does upon Commission approval of mergers. This statutory provision states:

"The Commission shall approve the [settlement] agreement only if it determines that the agreement is consistent with the public interest, convenience, or necessity. If the agreement does not contemplate a merger, but contemplates the making of any direct or indirect payment to any party thereto in consideration of his withdrawal of his application, the Commission may determine the agreement to be consistent with the public interest, convenience or necessity only if the amount or value of such payment, as determined by the Commission, is not in excess of the aggregate amount determined by the Commission to have been legitimately and prudently expended and to be expended by such applicant in connection with preparing, filing, and advocating the granting of his application." 47 USC §311(c)(3).

Clearly, in the case of "buy-out" agreements, the statute provides that reimbursement may not exceed the expenses legitimately and prudently expended by the dismissing applicant in prosecuting its application; however, Section 311(c)(3) and its legislative history make clear that the Commission must only examine merger agreements to determine if they are bona fide business transactions, as opposed to shams designed to give applicants greater remuneration than they would be entitled to if directly reimbursed for their expenses. Thus, the House Committee Report on the 1960 amendments to the Communications Act states in pertinent part:

"[T]he provision prohibiting approval of agreements calling for payments in excess of expenditures would be inapplicable in cases of bona fide mergers and the Commission, thus, would have to determine in each instance whether a proposed merger is a bona fide merger of competing interests or whether it is merely a device to evade the prohibition applicable to non-merger agreements." H Rep. No. 1800, 86th Cong., 2d Sess. 16 (1960).

7. In this case we have reviewed the agreement in light of the statutory requirements and conclude that the agreement is a bona fide merger in which the Biards and the Vinsons will share equal ownership in Station KBTA and will share equally in the risks and potential rewards of the business. As pointed out in the parties' joint supplement, they intend to split the existing indebtedness as well as the expenses involved in building the new FM station. In addition, Joseph Biard and Thomas A. Vinson, who are local residents with broadcast experience, and who, together with their wives, will own all of the stock of Station KBTA, will share operating responsibility by serving as fulltime managers of the proposed FM station. This being a bona fide merger proposal, the specific statutory restrictions on reimbursement, imposed by Section 311(c)(3) of the Act, do not apply. This case is unlike *Charles W. Jobbins*, 71 FCC 2d 295, 45 RR 2d 596 (1979), where the Commission rejected a purported merger, principally because one of the parties was contractually obligated to purchase the interests of the other parties in the new entity in three years.

8. Therefore, it is unnecessary for us to determine whether White River and its principals will receive from the transaction more than the legitimate and prudent expenses incurred in connection with prosecuting the White River application. Consequently, the applicants need not have submitted an appraisal of Station KBTA in an attempt to justify the amount of consideration flowing from the Biards to Station KBTA and Thomas G. Vinson. In sum, we hold that where applicants propose a bona fide merger of business interests in a settlement agreement, the full explanation and justification of consideration paid (including appraisals) that is required by §73.3525(a) of the rules for reimbursement

or "buy-out" agreements need not be supplied. Not only does this approach meet the letter and spirit of the Act, but it also avoids the extra expenses and delays that would be incurred by applicants in future merger cases in providing appraisals of existing stations or statements of value for unbuilt stations that are the subject of merger agreements.

9. Having disposed of the merits, it is necessary to focus on the undesirable delays that occurred in the prosecution of this case before the Board. All of the briefs were filed by November 4, 1980 and oral argument was scheduled for February 13, 1981. On February 10, 1981, the parties moved to extend the time for oral argument, and stated that they had agreed in principle to a settlement and expected to complete an agreement within 30 days. On March 10, 1981, the parties again notified the Board that a settlement agreement would be finalized and submitted for approval in 30 to 40 days. Two months later, on May 8, 1981, counsel for Biard filed a letter informing the Board that settlement negotiations, resulting documents and related applications should be finalized within 10 days and the documents filed promptly. Three days later, on May 11, 1981 they submitted a courtesy copy of the settlement agreement, which was dated April 14, 1981. The joint petition for approval of the settlement agreement, however, was not filed until June 2, 1981, and, on June 16, the parties filed a joint petition to accept their late-filed petition and agreement.

10. The settlement agreement was signed on April 14 and should have been filed, along with the joint petition and supporting affidavits, within 5 days from that date, pursuant to §73.3525(a) of the rules. 47 CFR §73.3525(a). In their request for late acceptance and waiver of this rule, filed on June 16, the parties state that they wished to file the joint petition and agreement simultaneously with the related FCC Form 315 (see paragraph 3, above), which had not yet been completed. The parties should have apprised us of their intentions in this regard within 5 days of the signing of the settlement agreement and requested a waiver, if necessary, at that time. Also, the letter of May 8, 1981 filed by counsel for Biard, implies that negotiations were not yet finalized when, in fact, the settlement agreement was signed on April 14. This apparent inconsistency is not explained by the parties. Thus, the parties were not only late in filing their proposed agreement but also failed to timely and accurately disclose the status of their efforts to reach a settlement.

11. We recognize that the settlement agreement is complicated and that this complexity accounted for part of the delay. Accordingly, the public interest will be better served here by accepting the late-filed settlement agreement than by denying the waiver request and dismissing the joint petition for approval of the settlement agreement in order to enforce the literal terms of the rule. However, the Board does take this opportunity to state that it expects parties to future settlement arrangements to exhibit greater promptness in concluding such agreements and fuller disclosure of the status of their negotiations. Specifically, the Board expects to be informed as early as possible that negotiations are taking place, particularly if such negotiations are the basis for filing extension requests, and, as a general rule, we will expect the negotiations to be completed within thirty days after commencement. In addition, careful adherence to the five-day period specified in §73.3525(a) for the filing of settlement agreements will be required.

12. Accordingly, it is ordered, that the Petition for Leave to Amend filed June 2, 1981 by White River Valley FM Radio is dismissed as moot; and

13. It is further ordered, that:

a. the Joint Petition to Accept Late-filed Petition and Agreement filed by the applicants on June 16, 1981 is granted and the Joint Petition is accepted;

b. the Joint Petition for Approval of Settlement Agreement filed by the applicants on June 2, 1981, is granted and the settlement agreement is approved;

c. the Motion to Withdraw Application filed on June 2, 1981 by White River Valley FM Radio is granted and the application (File No. BPH-11191) is dismissed with prejudice.

d. the application (File No. BPH-10931) of Biard Communications, Inc. is granted; and

e. this proceeding is terminated. 1/

FCC 81-420
29808

In the Matter of)	
)	
CABLEVISION, INC.	)	MI0260
Alma, Michigan	)	MI0309
St. Louis, Michigan	)	CSR-1785
Breckenridge, Michigan)	
Ithaca, Michigan)	
Petition for Reconsideration)	

Adopted: September 22, 1981
Released: October 1, 1981

[§85:55, §85:57, §85:61(J), §85:63] On-channel carriage; reconsideration denied.

Petition for reconsideration of the Commission's decision compelling on-channel carriage of a significantly-viewed television station on petitioner's cable system is denied. Petitioner's contention that the on-channel carriage requirement violated its First and Fifth Amendment rights was without merit; the validity of the Commission's signal carriage rules has been tested and upheld in prior decisions. Nor did the Commission exceed its jurisdiction in adopting the on-channel requirement. The Commission's cable television rules must be ancillary to the performance of its various responsibilities for the regulation of television broadcasting; the on-channel rule clearly falls within the ambit of that standard, promoting the broadcaster's interest in developing its station number identity without restricting the distribution of programming in a local television market. Cablevision, Inc., 50 RR 2d 341 [1981].

MEMORANDUM OPINION AND ORDER

By the Commission:

1. On March 6, 1981, Cablevision Inc. (hereinafter "Cablevision"), operator of a cable television system serving the above-captioned communities, filed a "Petition for Reconsideration" of the Commission's decision in Cablevision, Inc. (Alma, Michigan), FCC 81-37, released February 6, 1981 [48 RR 2d 1401]. Meredith Corporation (hereinafter

1/ To achieve the results ultimately contemplated by the merger agreement, the parties must file an FCC Form 315 application to transfer control of the Biard construction permit to the licensee of Station KBTA.

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Supplement to Joint Request for Approval of Settlement" were served by first-class United States mail, postage prepaid, on this 2nd day of October, 1992, upon the following:

Honorable Edward J. Kuhlmann (by hand)
Administrative Law Judge
Federal Communications Commission
Washington, D. C. 20554

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Hearing Branch, Mass Media Bureau
Federal Communications Commission
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Washington, D. C. 20554

Stephen T. Yelverton, Esquire
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Dennis J. Kelly